



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable Donald Allums
County Auditor
Hardin County
Kountze, Texas

Dear Sir:

Opinion No. 0-5788
Re: Whether Article 6594 and
Article 6597 require
county clerks to keep two
separate books to comply
with said statutes.

Your letter of December 22, 1943, requesting the
opinion of this department regarding the above stated matter
reads in part as follows:

"Article 6594 R.C.S. provides that when any in-
strument in writing authorized by law to be re-
corded shall be deposited in the office of the
county clerk, the clerk shall enter in a book to
be provided for that purpose, alphabetical order, in
the names of the parties and date and nature there-
of, and the time of delivery for record, etc. AND
Article 6597 R.C.S. provides that each county clerk
shall keep in alphabetical order a well bound index
to all books of records wherein deeds, powers of
attorney, mortgages or other instruments of writ-
ing concerning lands and tenements are recorded, etc.

"Please advise whether it is the opinion of
that Department that to comply with the above two
articles, it is necessary for the clerk to have
two books. One to comply with article 6594 and
another to comply article 6597. Or may the re-
quirements of both articles be complied with by
using only one book, if all provisions incorporated
in these two articles are arranged and covered in
one book only?"

Article 6594, V.A.C.S. provides:

"When any instrument of writing authorized by law to be recorded shall be deposited in the county clerk's office for record, as the same is acknowledged or approved in the manner prescribed by law for record, the clerk shall enter in a book to be provided for that purpose, in alphabetic order, the names of the parties and date and nature thereof, and the time of delivery for record; and shall give to the person depositing the same, if required, a receipt specifying the particulars thereof."

Article 6597, V.A.C.S. reads as follows:

"Each county clerk shall keep in alphabetic order a well bound index to all books of records wherein deeds, powers of attorney, mortgages or other instruments of writing concerning lands and tenements are recorded, distinguishing the books and pages in which every such deed or writing is recorded."

It will be noted that Article 6594, expressly provides that the clerk shall enter into a book to be provided for that purpose, in alphabetic, the names of the parties and the date and nature thereof, and the time of delivery for record when any instrument of writing authorized by law to be recorded shall be deposited in the county clerk's office for record, if the same is acknowledged or proved in the manner prescribed by law for record. The language of this statute strongly indicates that a separate book must be provided and kept for the purpose required by said Article. Apparently this statute imposes the duty upon the clerk to first and at once enter the instrument on the file register and then enter it upon the records. The book provided and kept for the purpose required by Article 6594 is sometimes called the "File Register".

Article 6597 requires the county clerk to keep in alphabetic order a well bound index to all books of records

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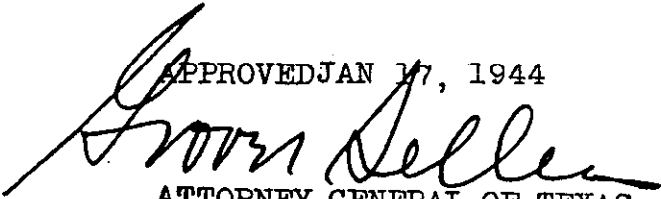
wherein deeds, powers of attorney, mortgages or other instruments of writing concerning land and tenements are recorded, distinguishing the books and pages in which every such deed or writing is recorded.

In the case of Throckmorton, et al. vs. Price, et al., 28 Texas Reports, 606, the Court had under consideration certain registration statutes similar to the ones under construction and said:

" . . . And to enable all persons who may wish to examine the office to ascertain what instruments have been deposited for record, it is also made the duty of the clerk (O. & W. Art. 1707) when any instrument has been deposited for record, to enter in alphabetical order, in a book to be provided for that purpose, the names of the parties to such instrument, the date and nature thereof, and the time of its delivery for record. And, as a further facility and security for persons wishing to make an examination in the office of the recorder for instruments required by law to be recorded, the clerk, after recording any such instrument, is directed to enter the same in the index books which he is required to keep of recorded instruments."

After carefully considering the foregoing statutes it is our opinion that it was contemplated by the Legislature when enacting the foregoing statutes that the county clerk should have two separate books, one for the purpose required by Article 6594 and one for the purpose required by Article 6597.

APPROVED JAN 17, 1944


ATTORNEY GENERAL OF TEXAS

Yours very truly

ATTORNEY GENERAL OF TEXAS

By 
Ardell Williams
Assistant

AW:ff

